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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,955	09/16/2003	Robert H. Wohleb		1765

9809 7590 11/29/2005

KEELING PATENTS AND TRADEMARKS  
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HOUSTON, TX 77007

EXAMINER
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LUDLOW, JAN M

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/663,955

Applicant(s)

WOHLEB, ROBERT H.

Examiner

Jan M. Ludlow

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1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 2-18 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/16/2003.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 19-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Wisebaker et al (US 4382000).

Wisebaker teaches a sorption vial 1 with base 20 and opening 16 or 60. A surface of sample vessel 30 in the interior of the sorption vial has an adsorptive coating. A cap 58 closes the sample vessel 30. The cap 58 is selectively connectable to the base 20 by sliding (See, e.g., Figs. 1 and 5). The vial interior (vessel exterior) is coated, the device assembled, the sample is applied to (collected in) the sample vessel 30 while the top of the sample vessel is closed with the cap and the bottom is open, the sample vessel 30 is pushed down, moving the cap relative to the base, allowing solvent to enter while the vial 1 is sealed with the base 20 (instant vial cap). It is the examiner's position that movement of the tube 30 inherently causes agitation and the headspace is inherently exposed to the sorbent. Note that the claims do not require the sorption vial to be inside the sample vessel.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Quay (US 6287521).

Quay teaches sample vessel 30 with cap 76 connected to the base of open vial 43 having sorbent coating 100 in the interior (Fig. 10).

4. Claims 2-18, 22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to teach or suggest the claimed structure.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Taskis teaches a sorbent layer 11, 12, 15, but no vial attached to a cap on a sample vessel.

8. Wong teaches a sorbent coating 34, but no vial attached to a cap on a sample vessel.

9. Flynn teaches vial 16 with opening 22 attached to cap 11 of vessel 10, but fails to teach or suggest a sorptive coating in the vial.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan M. Ludlow whose telephone number is (571) 272-1260. The examiner can normally be reached on Monday-Thursday, 11:30 am - 8:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jan M. Ludlow  
Primary Examiner  
Art Unit 1743

Jml  
November 27, 2005